IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Crl.MC.No. 2892 of 2007()

CC.147/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PERINTHALMANNA
CRIME NO.63/04 OF PANDIKKAD POLICE STATION

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PETITIONER:

FIROZ BABU, S/O. UNNEN,
POTTAYIL HOUSE, KUTTIPULI, PANDIKKAD,
MALAPPURAM DISTRICT.

BY ADV. SRI.DEVIDAS.U.K

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, PANDIKKAD,
THROUGH GOVERNMENT PLEADER, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2892 of 2007

Dated this the 5th day of October, 2007

O R D E R

In favour of the petitioner, a TATA Sumo vehicle was released during the pendency of C.C.147/2005 by the learned Judicial Magistrate of the First Class-II, Perinthalmanna. All the accused except one were available for trial. They were found not guilty and acquitted. The case against the 6th accused is split up and the same is continuing as C.C.85 of 2007. At that stage, the petitioner accused along with sureties prayed that the documents of title deposited by the sureties to prove their solvency may be released to the sureties. The learned Magistrate by Annexure-V order rejected the application as the case against the 6th accused was continuing.

2. The petitioner has now come before this Court lamenting that the direction that the title deeds of the sureties should be retained in court is causing great hardship and difficulties to the petitioner and the sureties. The petitioner therefore prays that there may be a direction to release the documents to the sureties in the peculiar facts and circumstances of the case.

3. Notice was given to the learned Public Prosecutor . The learned Public Prosecutor fairly submits that the State has no

objection against the documents of title being released to the sureties. The bond executed by them may be permitted to remain. In the alternative, a fresh set of sureties may be directed to execute the bond. The learned Magistrate may satisfy himself about the adequacy of the sureties. Insistence need not be made on production of title deeds.

4. In the result, this Crl.M.C is allowed. It is directed that the documents produced by the sureties/petitioners in Crl.M.P.No.2707/07 shall be released to such sureties. The bond executed by them shall continue to remain in force. If the sureties want to be excused from the obligations of surety ship, a fresh bond shall be executed by fresh sureties for the amount directed earlier. Such sureties need not be directed to deposit the title deeds.

(R.BASANT, JUDGE)

rtr/-